



Paper 14

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OFFICE OF PETITIONS

In re Application of :
Hongyong Zhang et al. :
Application No. 09/804,654 :
Filed: March 12, 2001 :
Attorney Docket No. :
07977/097003/US3176D1D1 :

ON PETITION

This is a decision on the petition filed August 4, 2003, to withdraw the holding of abandonment, which is treated under 37 CFR 1.181(b), in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned October 18, 2002 for failure to file a timely response to the non-Final Office Action mailed July 17, 2002 and which set a three month shortened statutory period for reply. Accordingly, a Notice of Abandonment was mailed June 3, 2003.

The file record discloses that the non-Final Office Action was mailed to the address of record, the same address to which the Notice of Abandonment was mailed. However, petitioner contends that the Office Action was not received. In support, petitioner indicates that a search of the file jacket revealed that the Office Action was not received and submits copies of pages from the mail log as well as the docketing system, wherein receipt of the non-Final Office Action would have been entered, had it been received to substantiate the claim. The statement and attachments corroborate non-receipt of the non-Final Office Action.

In view of the facts set forth in the petition, it is concluded that the non-Final Office Action was never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none will be charged.

This application is being forwarded to the Technology Center 2826 for a remailing of the non-Final Office Action previously mailed July 17, 2002.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

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